

results in an area source becoming a major source, then the owner or operator of such major source shall submit an application for a title V permit or application for a significant permit modification, or administrative amendment, whichever is applicable, on or before the date 6 months from the date that such source becomes a major source. If an existing area source becomes a major source as a result of the Administrator establishing a lesser quantity emission rate, then any emission unit, at that source, for which construction or reconstruction is commenced before the date upon which the source becomes major shall not be considered a new emission unit.

§ 63.53 Application content for case-by-case MACT determinations.

(a) *MACT Demonstration.* Except as provided by § 63.55(a)(3), an application for a MACT determination shall demonstrate how an emission unit will obtain the degree of emission reduction that the Administrator or the State has determined is at least as stringent as the emission reduction that would have been obtained had the relevant emission standard been promulgated according to the source category schedule for standards for the source category of which the emission unit is a member.

(b) *MACT Application.* The application for a MACT determination shall contain the following information:

(1) The name and address (physical location) of the major source;

(2) A brief description of the major source, its source category or categories, a description of the emission unit(s) requiring a MACT determination pursuant to other requirements in this subpart, and a description of whether the emission unit(s) require new source MACT or existing source MACT based on the definitions established in § 63.51;

(3) For a new emission unit, the expected date of commencement of construction;

(4) For a new emission unit, the expected date of completion of construction;

(5) For a new emission unit, the anticipated date of startup of operation;

(6) The hazardous air pollutants emitted by each emission point, and an estimated emission rate for each hazardous air pollutant.

(7) Any existing federally enforceable emission limitations applicable to the emission point.

(8) The maximum and expected utilization of capacity of each emission point, and the associated uncontrolled emission rates for each emission point;

(9) The controlled emissions for each emission point in tons/year at expected and maximum utilization of capacity, and identification of control technology in place;

(10) Except as provided in § 63.55(a)(3), the MACT floor as specified by the Administrator or the permitting authority.

(11) Except as provided in § 63.55(a)(3), recommended emission limitations for the emission unit(s), and supporting information, consistent with § 63.52(c) and § 63.55(a).

(12) Except as provided in § 63.55(a)(3), a description of the control technologies that will apply to meet the emission limitations including technical information on the design, operation, size, estimated control efficiency, and any other information deemed appropriate by the permitting authority, and identification of the emission points to which the control technologies will be applied;

(13) Except as provided in § 63.55(a)(3), parameters to be monitored and frequency of monitoring to demonstrate continuous compliance with the MACT emission limitation over the applicable reporting period.

(14) Any other information required by the permitting authority including, at the discretion of the permitting authority, information required pursuant to subpart A of this part.

§ 63.54 Preconstruction review procedures for new emission units.

(a) *Review process for new emission units.* (1) If the permitting authority requires an owner or operator to obtain or revise a title V permit before construction of the new emission unit, or when the owner or operator chooses to obtain or revise a title V permit before construction, the owner or operator

shall follow the administrative procedures established under title V before construction of the new emission unit.

(2) If an owner or operator is not required to obtain or revise a title V permit before construction of the new emission unit (and has not elected to do so), but the new emission unit is covered by any preconstruction or pre-operation review requirements established pursuant to section 112(g) of the Act, then the owner or operator shall comply with those requirements, in order to ensure that the requirements of section 112(j) and section 112(g) are satisfied. If the new emission unit is not covered by section 112(g), the permitting authority, in its discretion, may issue a Notice of MACT Approval, or the equivalent, in accordance with the procedures set forth in paragraphs (b) through (h) of this section, or an equivalent permit review process, before construction or operation of the new emission unit.

(3) Regardless of the review process, the MACT determination shall be consistent with the principles established in § 63.55. The application for a Notice of MACT Approval or a title V permit, permit modification, or administrative amendment, whichever is applicable, shall include the documentation required by § 63.53.

(b) *Optional administrative procedures for preconstruction or pre-operation review for new emission units.* The permitting authority may provide for an enhanced review of section 112(j) MACT determinations that provides for review procedures and compliance requirements equivalent to those set forth in paragraphs (b) through (h) of this section.

(1) The permitting authority will notify the owner or operator in writing as to whether the application for a MACT determination is complete or whether additional information is required.

(2) The permitting authority will approve an applicant's proposed control technology, or the permitting authority will notify the owner or operator in writing of its intention to disapprove a control technology.

(3) The owner or operator may present in writing, within a time frame specified by the permitting authority, additional information, considerations,

or amendments to the application before the permitting authority's issuance of a final disapproval.

(4) The permitting authority will issue a preliminary approval or issue a disapproval of the application, taking into account additional information received from the owner or operator.

(5) A determination to disapprove any application will be in writing and will specify the grounds on which the disapproval is based.

(6) Approval of an applicant's proposed control technology will be set forth in a Notice of MACT Approval (or the equivalent) as described in § 63.52(c).

(c) *Opportunity for public comment on Notice of MACT Approval.* The permitting authority will provide opportunity for public comment on the preliminary Notice of MACT Approval prior to issuance, including, at a minimum,

(1) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the permitting authority's tentative determination;

(2) A period for submittal of public comment of at least 30 days; and

(3) A notice by prominent advertisement in the area affected of the location of the source information and analysis specified in § 63.52(c). The form and content of the notice will be substantially equivalent to that found in § 70.7 of this chapter.

(4) An opportunity for a public hearing, if one is requested. The permitting authority will give at least 30 days notice in advance of any hearing.

(d) *Review by the EPA and Affected States.* The permitting authority will send copies of the preliminary notice (in time for comment) and final notice required by paragraph (c) of this section to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in the region in which the new source would be located. The permitting authority will provide EPA with a review period for the final notice of at least 45 days, and will not issue a final Notice of MACT approval unless EPA objections are satisfied.

(e) *Effective date.* The effective date for new sources under this subsection shall be the date a Notice of MACT Approval is issued to the owner or operator of a new emission unit.

(f) *Compliance date.* New emission units shall comply with case-by-case MACT upon issuance of a title V permit for the emission unit.

(g) *Compliance with MACT Determinations.* An owner or operator of a major source that is subject to a MACT determination shall comply with notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements established under § 63.52(e), under title V, and at the discretion of the permitting authority, under subpart A of this part. The permitting authority will provide the EPA with the opportunity to review compliance requirements for consistency with requirements established pursuant to title V during the review period under paragraph (d) of this section.

(h) *Equivalency under section 112(l).* If a permitting authority requires preconstruction review for new source MACT determinations under this subpart, such requirement shall not necessitate a determination under subpart E of this part.

§ 63.55 Maximum achievable control technology (MACT) determinations for emission units subject to case-by-case determination of equivalent emission limitations.

(a) *Requirements for emission units subject to case-by-case determination of equivalent emission limitations.* The owner or operator of a major source submitting an application pursuant to § 63.52 or § 63.54 shall include elements specified in § 63.53, taking into consideration the following requirements:

(1) When the Administrator has proposed a relevant emission standard for the source category pursuant to section 112(d) or section 112(h) of the Act, then the control technologies recommended by the owner or operator under § 63.53(b)(12), when applied to the emission points recommended by the applicant for control, shall be capable of achieving all emission limitations and requirements of the proposed standard unless the application con-

tains information adequate to support a contention that:

(i) Different emissions limitations represent the maximum achievable control technology emission limitations for the source category, or

(ii) Requirements different from those proposed by EPA will be effective in ensuring that MACT emissions limitations are achieved.

(2) When the Administrator or the permitting authority has issued guidance or distributed information establishing a MACT floor finding for the source category or subcategory by the section 112(j) deadline, then the recommended MACT emission limitations required by § 63.53(b)(11) must be at least as stringent as the MACT floor, unless the application contains information adequately supporting an amendment to such MACT floor.

(3)(i) When neither the Administrator nor the permitting authority has issued guidance or distributed information establishing a MACT floor finding and MACT determination for a source category or subcategory by the section 112(j) deadline, then the owner or operator shall submit an application for a permit or application for a Notice of MACT Approval, whichever is applicable, containing the elements required by § 63.53(b) (1) through (9) and (14), by the section 112(j) deadline.

(ii) The owner or operator may recommend a control technology that either achieves a level of control at least as stringent as the emission control that is achieved in practice by the best controlled similar source, or obtains at least the maximum reduction in emissions of hazardous air pollutants that is achievable considering costs, non air quality health and environmental impacts, and energy requirements.

(4) The owner or operator may select a specific design, equipment, work practice, or operational standard, or combination thereof, when it is not feasible to prescribe or enforce an equivalent emission limitation due to the nature of the process or pollutant. It is not feasible to prescribe or enforce a limitation when the Administrator determines that a hazardous air pollutant (HAP) or HAPs cannot be emitted through a conveyance designed and constructed to capture such pollutant,